



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

APR 19 2012

Ref: 12-00144-F

OCCL

Mr. Nick Schwellenbach
Project On Government Oversight
1100 G St NW
Suite 500
Washington, DC 20005

Dear Mr. Schwellenbach:

This is the final response to your Freedom of Information Act (FOIA) request dated April 11, 2012, for *“Appendices E, F, and G to the Review of Office of Deputy Inspector General for Administrative Investigations, Directorate for Military Reprisal Investigations.”* We received your request on the same date, and assigned it FOIA case number 12-00144-F.

The Office of the Deputy Inspector General for Administrative Investigations found the enclosed pages. I have determined that the redacted portions are exempt from release pursuant to 5 U.S.C. § 552(b)(6), which pertains to information, the release of which would constitute a clearly unwarranted invasion of personal privacy; and 5 U.S.C. § 552(b)(7)(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of individuals.

If you are not satisfied with this action, you may submit an administrative appeal to the Department of Defense, Office of the Inspector General, Office of Communications and Congressional Liaison, ATTN: Mr. John R. Crane, Suite 15F25, 4800 Mark Center Drive, Alexandria, VA 22350-1500. Your appeal should be postmarked within 60 days of the date of this letter, should cite case number 12-00144-F, and should be clearly marked “Freedom of Information Act Appeal.”

Sincerely,


Jeanne Miller
Chief, Freedom of Information and
Privacy Office

Enclosure(s):
As stated

Declination

Sheet #	Hotline Number	MRI Reason for Declining	Review Team Reason		Other	**Categories for Disagreement
			Agree/	Disagree		
1	112704	LOI filed locally is not a UPA	Disagree	LOI is a UPA		1
2	113582	LOI filed locally is not a UPA	Disagree	LOI is a UPA		1
3	113905	An investigation and harsh punishment are not a UPA	Disagree	Actions taken as a result of an investigation are a UPA		4
4	113472	Current issue is related to Jun '09 complaint; that was declined because of performance issues prior to PC	Disagree	Obergatory NCODER is a UPA		4
5	114268	LOC not UPA; no documentation of UPA	Disagree	Lack of documentation/information is not basis for declination. LCC is an UPA.	MRI decision partially based on previous complaint, but that complaint was not included in file	1,3
6	114592	No PC	Agree	N/A		
7	114493	Alleged PC but no details provided and didn't explain how RMO would know about it.	Disagree	Lack of documentation/information is not basis for declination		3
8	114500	No UPA; LOI documents events and is not in permanent record	Disagree	LOI is a UPA		1
9	114720	LOC and counseling not UPA	Disagree	LOC is a UPA		
10	114700	Not enough info; complainant didn't respond to request for more info	Agree	N/A	email only contact w/ complainant; did it get there?	1
11	113957	No PC; MHE referral w/in reg	Agree	N/A		
12	114806	Commander's order for JAG not to assist complainant is not UPA	Agree	N/A		
13	114832	No PC based on contact w/ chain of command over assignment issue	Disagree	Contact w/ IG is a PC regardless of topic and threatened termination is a UPA		2,4
14	114927	No evidence PC is connected to current issue	Disagree	Connection of PC to UPA is not needed at this stage		4
15	115084	No UPA	Agree	N/A		
16	114978	Counseling and investigation not UPA; MRI doesn't do medical credentialing/privileges issues	Disagree	Suspension of Clinical privileges is a UPA.	Arbitrarily limiting statute is not appropriate	2,4
17	107248	Prelim inquiry in '08 closed due to complainant non-responsiveness; current issue no UPA	Agree	N/A	Subsequent allegation should have been handled as separate case	
18	115066	Not enough info; complainant didn't respond to request for more info	Agree	N/A	Concerned email is not productive method for contact w/ complainant	
19	115392	No UPA articulated; appears to be same issue at '09 complaint but PC is unclear	Agree	Agree; however, previous complaint should have been summarized since it was basis for decision.		
20	115384	Disagreeing with CO over non-endorsement of another officer was not a PC; counseling not UPA	Disagree	PC was abuse of authority and violation of rule allegations; LOC and adverse FITREP are UPAs		1,4
21	114577	Not timely filed; MRI will not pursue medical privileges/credential because other avenues exist	Agree	Agree not timely; however, concerned about declining based on other due process/appeal options for complainant		
22	115381	Complainant is a drilling reservist and most allegations relate to AD orders; NCODER is not adverse	Disagree	NCODER is adverse and a UPA. Denial of training is UPA	Lack of specificity of information provided was not clarified	4
23	114401	Should be addressed by Command; not timely; and no RMO identified. Navy's response to Congress was sufficient; FITREP was only for three months.	Disagree	RMOs don't need to be identified at this stage; complaint was timely; lengthening of FITREP is irrelevant.		3,4
24	115595	Not timely filed.	Agree	N/A	Timeliness can be waived; the fact there was no PC is the best reason for declination	

Declination

25	115649	No PC; complainant's opinion about classroom instruction doesn't meet the level of a PC	Disagree	Alleging chain not following rules is a PC; dismissal from class is a UPA; validity should be determined at next stage		4
26	115759	An investigation is not a UPA	Disagree	PC was complaint to chain; UPA was suspension	Complainant sought reconsiderations via email; no indication of response or action	4
27	115700	Appears to be an EO complaint. No UPA; flag is required if under investigation	Disagree	PC was EO complaint; UPA was threat of UCMJ action	Complainant also contacted HL in May '05 and HL opened case 96970 8-19-05. No disposition noted; case destroyed 1-16-08	2
28	115705	Complainant alleged site was the subject of an investigation; no UPA	Agree			
29	115811	Counseling statements are not UPA; they are not included in permanent file	Disagree	PC was complaint to local IG; UPA was threat of ending career. LOC is a UPA.	Why was this referred to Army IG on 7-28-10? What was the disposition? This appears open; why part of Population 1?	1
30	116034	Complaint is vague; insufficient evidence of reprisal	Disagree	PC was a substantiated IG complaint; UPA was an LOR and threat. We agree the complaint lacks information, but it should be dismissed at this stage; Complainant needs to be interviewed and more information obtained.		1, 2, 3
31	116063	No new information from previous, July '09, complaint warranting reconsideration. Does raise concerns about FEB and racial discrimination; however these don't fall under 10 USC 1034	Agree	Agree; however, previous complaint should have been summarized since it was basis for decision.	Unnecessary narrowing of statute by determining FEB and racial discrimination don't fall under it.	
32	116175	No allegation of reprisal. MRE reviewed by Marine IG and found to be in compliance. No new information warranting relook	Agree		On 8-30-10, HL received and email from Complainant requesting reconsideration; no evidence it was ever acknowledged, replied to, or that MRE was notified	
33	116186	PC after UPA; insufficient evidence of reprisal.	Disagree	PC 7-15-10 email to chain of command; UPA 7-19-10 training hold and LOC for a prior incident		1, 3, 4
34	11678	No UPA; Complainant is concerned about threat of future UPA. If they occur, resubmit with documentation	Disagree	PC April '10 reporting Commander for violation of JIFTR; UPA multiple LOR starting 4-27-10 and threat of early release		1, 2
35	116181	AMC IG reviewed this and determined PC was after UPA; Complainant was relieved of Command for cause triggering COR OER	Agree		HL appears to have made independent decision on Complainant's supplemental submission w/o consulting MRE	
36	116307	No PC. Tour was not extended due to not attending training.	Agree	"I don't want to be transferred" is not a PC.		
37	116062	Initially [REDACTED] asked for complete description of PC & UPA. Then [REDACTED] determined no UPA; if Complainant gets fired, he should resubmit	Disagree	PC April/May '10 reporting misconduct; UPA threat of being fired		2
38	115944	UPA does not fall under statute; not filed timely. If Complainant is REFRAD, site should resubmit	Disagree	PC is Sep '09 EO complaint and Apr '10 Congressional; UPA is threat of REFRAD		2
39	116683	Same complaint as previous, 11633; already declined	Disagree	Previous complaint had a PC followed by a UPA and should have proceeded. MRE agreed, but determined the UPA to be justified; not appropriate for this stage	Previous complaint filed by Complainant; this time a referral from FBI/DCIS	4
40	113071	Need to provide clarification and documentation to support his complaint	Agree	Concerned HL waited 1 1/2 months before requesting more info and then closed it three weeks later.		

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41	113951	Need to clarify employment status and provide documentation regarding UPA/PC	Disagree	Agree complainant didn't provide everything asked for, but he was still trying when it was closed.	1-3-10 MRI tells HL to get info; HL informs C; seemingly ignores 3-18-10 email and re-sends 3-14-10 email; later C replies answering some of the questions asked by MRI	3-14-10 3-18-10 C 4-1-10 HL 4-1-10 (three hours later) C replies answering some of the questions asked by MRI	3
42	113952	Need to provide documentation regarding UPA/PC	Disagree	PC was reporting "something" to chain of command; UPA was threats	Documentation is not REQUIRED at this stage.		2, 3
43	113980	Need to clarify reprisal allegation with details/documents. MRI will not address UPA before Sep '09 or military medical issues	Disagree	PC was complaining to chain alleging discrimination based on religion/national origin; multiple UPAs were provided with specificity.			3
44	114269	Need to provide copies of counsellings, documentation of Admin Discharge, and copies of appeals w/ Command response	Disagree	PC was substantiated Feb '09 complaint to local IG and Aug '09 IG complaint; UPA was Dec '09 adverse NCOER and attempt to discharge	HL 112000 AUG '09 Complainant alleged reprisal after IG complaint; MRI declined stating counsellings were not UPA		3
45	114773	Need to provide documentation regarding UPA/PC	Disagree	PC was EO complaint; UPA was disciplinary review board and negative counsellings. Specific dates and names were provided in complaint.	On 5-5-10, Complainant replied to a HL email; no evidence it was acknowledged or that HL responded.		3
46	114866	Need to provide dates, copies of adverse actions, and copy of EO complaint	Disagree	PC was EO complainant; UPA was verbal and then written counselling and pending UCMJ action			3
47	115003	Need to clarify exactly what UPAs have occurred and provide documentation; also need to send copy of IG complaint	Disagree	PC was report of wrongdoing to supervisor and then higher chain of command; UPA was being fired and transferred to a lower position	Agree dates were not provided, but Complainant was deployed to a war zone; he met the burden for the initial stage. Sending a single email and then closing it due to nonresponsiveness isn't right.		3
48	115238	Need to provide documents and details (dates) of his letter to Congress and the UPAs	Disagree	PC was letter to Congress; UPA was demotion and preparation of separation paperwork			3
49	115903	Need to provide documents regarding PC, MHE, and any other UPA	Disagree	PC was report to command; UPA was MHE referral	Complainant stated in his complaint he was deployed and having connectivity problems, yet this was closed after sending only a single email requesting documents		3
50	115853	Need to clarify allegations and provide supporting documentation of counselling statements, feedback and copy of NCOER	Disagree	PC was report of hostile work environment to DoD IG; UPA was perceived adverse NCOER and threat of downgrade of NCOER			3
51	115932	Need to provide full description of PC, documentation/full description of alleged mismanagement/abuse of authority; identify actions taken by each RMC; describe/provide documents of UPA; status of 15-6; status of OER w/ copy if signed; and status of employment	No decision	There is no closure date listed in file. If this is still open, why is it in Population 1	The request for all this documentation seems excessively burdensome and not necessary (AW statute		
52	116073	Need supporting documentation regarding MHE (names, medical records, witness statements) and documentation for any alleged UPA. Also documentation of Police or EO report	No decision	This is open and active. [REDACTED] initially declined (see info to left) but Deese appears to have overruled and sent referred the MHE portion to DMAIG (which is contrary to her written remarks stating that MRI would accept MHE and everything else would be referred.	What is the disposition of the non-MHE portion?		

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** Categories for Disagreement	
1	Letters of reprimand, counseling, and instruction that were issued after a PC was made, and held locally, were not considered UPAs by MRI.
2	Cases were declined because a service member only received a threat of an unfavorable personnel action, or could challenge an underlying action in another forum.
3	Cases were declined for lack of documentation or details submitted by the service member supporting the allegation of a protected communication or unfavorable personnel action.
4	Other

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Preliminary Investigation

Sheet #	Hotline #	Reason for Closing	Agree / Disagree	Review Team Reason	Other	**Categories for Disagreement
1	H09L108244	Insufficient evidence; no adverse info in permanent file	Disagree	Can't assume why RMO took action w/o interview	MRI opined 15-6 was basis for dismissal, but never asked	2
2	H08L108386	UPA preceded PC and had independent basis	Agree			
3	H09L108668	Insufficient evidence UPA was linked to PC; independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Repeatedly asked Complainant to prove RMO knowledge of PC	2
4	109882	Referred for full investigation	None			
5	109800	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	LOC was a UPA	1, 2
6	109835	Complainant request	Agree			
7	109968	No UPA	Disagree	LOCs are UPA; need to talk to RMOs		1, 2
8	109991	No UPA	Disagree	OER was a UPA; need to talk to RMOs	NATO job lost due to OER	2, 4
9	110114	Independent basis for UPA	Agree			
10	110513	Independent basis for UPA	Agree			
11	111354	Currently being investigated	None			
12	112090	Independent basis for UPA	Agree			
13	112447	Referred for full investigation	None			
14	112479	No PC	None	Contractor; not subject to 10 USC 1034		
15	112499	Referred for full investigation	None			
16	112526	Sent to AF for Preliminary Investigation	None			
17	112914	Independent basis for UPA	Agree			
18	113258	No UPA	Disagree	Loss of job certification is a UPA; need to talk to RMOs		2, 4
19	113264	No PC	Disagree	Reported abuse; should have determined what the abuse was	Counseling statement shows Restriction --not addressed	4
20	114699	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview		2
21	114744	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview		2
22	115448	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Early redeployment is a UPA	2, 4
23	115591	Referred for full investigation	None			
24	115973	Rebuttal actively being worked by MRI & OGC	None			
25	WB 2009-151	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Bias was found, but not addressed	2
26	WB 2009-158	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Restriction was found, but not addressed	2
27	WB 2009-197	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Reduction in rank could have been done in 2005, but didn't occur until just after PC	2
28	WB 2009-200	No UPA	Agree	Complainant's alleged UPA wasn't; however there was an Art 15 which is a UPA	What is the IG's obligation to address issues not alleged by complainant? Allegation of criminality should have been reported/referred	

29	WB 2009-220	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
30	WB 2009-259	Independent basis for UPA	Agree	Telling complainant they need to have a perfect record is wrong	
31	WB 2009-288	Negative counseling are not UPA because they are filed locally	Disagree	LOCs are UPAs; need to talk to RMOs	1,2
32	WB 2009-308	MHE followed proper procedures	Agree		
33	WB 2009-324	Independent basis for UPA	Agree		
34	WB 2009-362	MHE followed proper procedures	Agree		
35	WB 2009-364	Article 15 was for actions prior to PC	Disagree	Article 15 was issued after PC; need to talk to RMO	2,4
36	WB 2010-003	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
37	WB 2010-022	No UPA	Disagree	Can't assume why RMO took action w/o interview	
38	WB 2010-055	Complainant would not provide consent to release info and pulled complaint	Agree	There was substantiated restriction that was not dealt with	
39	WB 2010-063	Independent basis for UPA	Agree	LOC was not considered; RMO never talked to	
40	WB 2010-071	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
41	WB 2010-072	Documented intent of UPA prior to PC	Disagree	LOC was not considered; RMO never talked to	
42	WB 2010-114	Untitled	Agree		1,2
43	WB 2010-150	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	
44	AF 2005-125	Admin closed; MRI previously declined during a PI; UPA not part of official record	Disagree	Unable to determine based on information in file	One of the statements confirmed reprisal
45	AF 2006-054	No UPA	Disagree	How can they determine TDY is not a UPA with no information about TDY?	3
46	AF 2006-016	Independent basis for UPA	Disagree	RMO attributed move to IG complaint	"Follow your chain of command or pay the price"
47	AF 2008-247	No UPA	Agree	Disagree with MRI's reasoning, but there was independent basis for UPA	1,4
48	AF 2008-284	Independent basis for UPA	Agree	LOC was a UPA	
49	AF 2009-170	Independent basis for UPA	Agree		
50	AF 2009-273	Independent basis for UPA	Agree		
51	AF 2009-275	Independent basis for UPA	Agree		
52	AF 2009-290	Independent basis for UPA	Agree		
53	AF 2009-297	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
54	AF 2009-298	No UPA	Agree		
55	AF 2009-303	No UPA	Disagree	Can't assume why RMO took action w/o interview	"Accept LOC or resign" w/held quarterly award
56	AF 2009-306	Independent basis for UPA	Agree	MRI opined an LOC was not a UPA; we disagree	1,2

Preliminary Investigation					
57	AF 2009-316	No PC (MRI disagreed, but thought there was an independent basis for the UPA)	Agree		What does "PC did not impact RMO" have to do with anything?
58	AF 2009-318	PC did not impact RMOs	Disagree	Can't assume why RMO took action w/o interview	2
59	AF 2009-325	Independent basis for UPA	Agree		
60	AF 2009-334	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
61	AF 2009-345	MHE due to early return and info from previous Commander independent basis for UPA	Disagree	Unable to determine based on information in file	3
62	AF 2009-348	Independent basis for UPA	Agree	LOR is UPA; MRI stated it isn't because it doesn't follow LOR	
63	AF 2009-355	Independent basis for UPA; LOR not a UPA	Disagree	to next unit	Complainant is an ANG member; there is no "next unit"
64	AF 2009-372	Complainant withdrew complaint	Agree		Not investigated in a timely manner
65	AF 2009-380	Independent basis for UPA	Agree		
66	AF 2010-026	RMO not aware of PC and independent basis for UPA	Disagree	RMO admitted knowledge of PC and ID suspected RMO credibility	4
67	AF 2010-030	Independent basis for UPA	Agree		
68	AF 2010-048	No PC; independent basis for UPA	Agree		
69	AF 2010-062	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	2
70	AF 2010-104	No PC; no UPA; UPA prior to PC; not submitted timely	Agree		
71	AF 2010-127	No UPA	Agree	Disagree with MRI's reasoning, but there was independent basis for UPA	
72	AF 2010-142	Independent basis for UPA	Agree		
73	AF 2010-145	Independent basis for UPA	Agree		
74	AF 2010-146	Independent basis for UPA	Agree	Recused himself	
75	AF 2010-153	No PC	Agree		
76	AF 2010-157	Independent basis for UPA	Agree		
77	AF 2010-179	RMOs not aware of PC	Agree		
78	AF 2010-189	Independent basis for UPA	Agree		
79	AR 2003-147	Complainant no longer on AD	Agree	Not investigated in a timely manner PC was in 2002, UPA was Jan 2003	
80	AR 2005-065	Same allegation as SIRC 2005-128 which is still open	Disagree	Unable to determine based on information in file	3
81	AR 2005-245		Removed	The file was from 2005	
82	AR 2008-081		Removed	Referred for full investigation	
83	AR 2008-099	Complainant request	Agree	Complainant unable to provide documentation in requested format, so withdrew request	
84	AR 2009-313	Investigation not UPA; no allegation of PC based adverse action	Disagree	Unable to determine based on information in file	3
85	AR 2009-314	Independent basis for UPA	Disagree	Unable to determine based on information in file	3
86	AR 2009-375	Complainant request	Agree	ISO CASE	
				Not investigated in a timely manner	

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87	AR 2010-010	Lack of credibility of Complainant	Agree		
88	AR 2010-089	Uncooperative Complainant	Agree		
89	AR 2010-121	UPA preceded PC and had independent basis	Disagree	Unable to determine based on information in file	ISO CASE
90	NV 2008-256	No UPA	Disagree	Threat of dismissal is UPA	3
91	NV 2008-267	Duplicate of SJRC 2009-293; no UPA	Disagree	Unable to determine based on information in file	4
92	NV 2008-325	Independent basis for UPA	Agree		3
93	NV 2009-153	Independent basis for UPA	Agree		
94	NV 2009-245	Independent basis for UPA	Disagree	Can't assume why RMO took action w/o interview	Would have agreed if RMO action had been explained by RMO and not 3rd party
95	NV 2009-296	No PC	Agree	MHE issue not addressed	2
96	NV 2010-023	Resolved internally; formal inquiry initiated	Agree	UPA preceded PC	
97	NV 2010-087	No UPA; independent basis	Disagree	Can't assume why RMO took action w/o interview	1, 2
98	NV 2010-173	UPA preceded PC and had independent basis	Agree		
** Categories for Disagreement					
	1	Letters of reprimand, counseling, and instruction that were issued after a PC was made, and held locally, were not considered UPAs by MHE.			
	2	MHE declined to further investigate cases without obtaining a statement or any facts directly from the responsible management official.			
	3	The record or case file was not fully developed.			
	4	Other			

Full Investigation